

REMARKS

In the outstanding official action, claims 1-20 were rejected under 35 USC 102(e) as being anticipated by Sasaki et al for the reasons of record. In response, independent claims 1 and 10 are herewith amended in an editorial manner for improved clarity, and it is respectfully submitted that these claims, and the remaining claims depending therefrom, are clearly patentably distinguishable over the cited and applied reference for the reasons detailed below.

More particularly, it was suggested in the Action that Sasaki teaches a recording apparatus having all of the elements, means and structures as recited in claims 1-9, and that method claims 10-20 are drawn to the method of using the corresponding apparatus claimed in claims 1-9 and therefore method claims 10-20 correspond to apparatus claims 1-9 and are rejected for the same reasons of anticipation. Accordingly, while the following discussion is directed specifically to independent claim 1 (and the remaining claims depending therefrom), it is also directly applicable to corresponding method claims 10-20 which were rejected for the same reasons.


In the Action, with reference to Figs. 21 and 22 of the reference, it was suggested that the "characterized in that" recitation that the control means are adapted to mark a part of the medium as unusable in the defect data table and to record a part of

the second file system data in the part of the medium marked as unusable is specifically taught. On the contrary, it is respectfully submitted that the relevant teachings with reference to Figs. 21 and 22 in the reference are clearly patentably distinguishable, and therefore do not anticipate the instant invention as presently claimed.

In particular, referring to column 2, lines 48-57, it is stated in the reference that when a defect area is detected during the recording process, the optical disc drive device substitutively records the content of the AV file, which is to be recorded in a defect area in the spare area, and registers, in the DMA, a spare entry which is information corresponding to an address of the defect area and an address of the spare area. Clearly, this teaching is different from the relevant express recitation in claim 1, which recites that the control means are adapted to mark a part of the medium as unusable in the defect table and to record a part of the second file system data in the part of the medium marked as unusable. Furthermore, the cited and applied reference is additionally distinguishable over the instant invention as claimed in that the cited portion of the reference clearly refers to a process for writing new video and audio data over the AV file, also described as substituting for a defect area and causing the AV file to be overwritten (see, for example, col. 2, lines 29-32 and col. 3, lines 6-7).

Thus, it is respectfully submitted that the express limitations of claim 1 (and claim 10) as discussed above are clearly patentably distinguishable over the corresponding teachings in the cited and applied reference. Accordingly, it is respectfully submitted that independent claims 1 and 10, and the remaining claims depending therefrom, are now in condition for allowance. Favorable consideration is earnestly solicited.

Respectfully submitted,


By _____
Steven R. Biren, Reg. No. 26,531
Attorney
(914) 333-9630